

Ex. 24



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

Michael R. Pence  
Governor

Thomas W. Easterly  
Commissioner

April 11, 2013

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
Toll Free (800) 451-6027  
[www.idem.IN.gov](http://www.idem.IN.gov)

### NOTICE OF VIOLATION

*Via Certified Mail No.: 91 7190 0005 2710 0026 3544*

*Via Certified Mail No.: 91 7190 0005 2710 0026 3551*

To: All American RV Resorts I, LLC,  
Brian Schaper, Member  
5453 Blue Lake Road  
Churubusco, IN 46723

To: All American RV Resorts I, LLC  
Brian A. Schaper, Registered Agent  
2042 Broadway  
Fort Wayne, IN 46802

Case No. 2013-21465-Q

Based on an investigation, the Indiana Department of Environmental Management (IDEM) has reason to believe that All American RV Resorts I, LLC (Respondent) has violated environmental statutes and rules. The violations are based on the following:

1. Respondent is All American RV Resorts I, LLC (Respondent), which owns the Blue Lake Campground located at 5453 Blue Lake Road, Churubusco, Whitley County, Indiana (the Site).
2. On February 23, 2011, IDEM staff conducted an inspection at the Site. During this inspection, it was observed and documented that Respondent had caused unauthorized wetland fill on the property.

On September 13, 2011, IDEM staff and the United States Army Corps of Engineers (the Corps) conducted an inspection at the Site. During this inspection IDEM staff observed that fill material had been deposited into Waters of the United States, including wetlands. The wetland disturbed also constituted Waters of the State. Specifically, IDEM staff documented that there were two areas where fill had been discharged into wetlands contiguous with Blue Lake, one area was approximately 0.49 acre of fill and another area was approximately 0.71 acre of fill. The total area of fill in wetlands was approximately 1.2 acres.

On December 12, 2011, the Corps sent notification to Respondent that the Corps exercises regulatory jurisdiction over Blue Lake and its adjacent wetlands under Section 404 (33 USC 1344) of the Clean Water Act, and that it is unlawful under Section 301 of the Act (33 USC 1311) to place pollutants into Waters of the United States without prior authorization. Respondent was notified that the Corps had not received a Department of the Army permit issued in accordance with Section 404 for the fill material that had been deposited into the Waters of the United States at the Site.

On February 23, 2012, IDEM staff and the Corps met with Respondent at the Site and again observed the unauthorized fill in the wetlands.



On July 10 2012, the United States Environmental Protection Agency (the EPA) and the Corps conducted an inspection at the Site during which the extent of the fill material was investigated and the impacted wetland was mapped.

On August 2, 2012, the EPA notified Respondent that the EPA confirmed the wetland impacts found by the Corps and IDEM in 2011. The EPA notified Respondent that the fill material needed to be removed and for any fill that remains, Respondent would be required to mitigate for those impacts by either creating or restoring at least a like amount of wetlands. Any after-the-fact permitting would be handled by the Corps and IDEM.

On October 11, 2012, the EPA sent notification to Respondent that the EPA had not yet received a response from Respondent regarding the EPA's above referenced August 2, 2012, letter.

3. Pursuant to 327 IAC 5-2-2, any discharge of pollutants into Waters of the State as a point source discharge, except for exclusions made in 327 IAC 5-2-4, is prohibited unless in conformity with a valid NPDES permit obtained prior to the discharge.

Pursuant to IC 13-30-2-1, it is unlawful for any person to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

During the above noted inspections conducted at the Site by IDEM, the EPA, and/or the Corps on February 23, 2011, September 13, 2011, and July 10 2012, it was observed that Respondent had placed fill material in wetland areas, which constituted a point source discharge of pollutants into Waters of the State, without being in conformity with a valid NPDES permit obtained prior to the discharge, in violation of 327 IAC 5-2-2, and therefore in violation of IC 13-30-2-1.

4. Pursuant to 327 IAC 2-1-6(a)(1), all surface waters at all times and at all places, including the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices or other discharges that will settle to form putrescent or otherwise objectionable deposits, that are in amounts sufficient to be unsightly or deleterious, that produce color, odor or other conditions in such degree as to create a nuisance, which are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans.

Pursuant to IC 13-30-2-1, it is unlawful for any person to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules,



standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

During the above referenced inspections conducted at the Site by IDEM, the EPA, and/or the Corps on February 23, 2011, September 13, 2011, and July 10 2012, it was documented that Respondent had placed fill material in wetland areas at the Site, resulting in objectionable deposits, and Respondent had failed to maintain and protect existing beneficial uses, degraded the water quality, and interfered with the existing and potential uses of the wetlands at the Site, in violation of 327 IAC 2-1-6(a)(1) and IC 13-30-2-1.

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than 60 days.


As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within 60 days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Terry Ressler at (317)232-8433 within 15 days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 4-11-2013

  
Mary E. Hoover, Chief  
Water Enforcement Section  
Surface Water, Operations & Enforcement Branch  
Office of Water Quality

cc: Whitley County SWCD  
U.S. Army Corps of Engineers  
U.S. Environmental Protection Agency  
<http://www.in.gov/idem>